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PLEASE REPLY TO SEVENOAKS OFFICE

13 June 2008

ONLINE FILING

OUR REF: MRH/AME/P40657EP
YOUR REF:

Dear Sirs

Re: European Patent Application No. 04 806 258.2
Astex Therapeutics Limited *et al.*
Our Reference: MRH/P40657EP

I refer to the communication pursuant to Article 94 (3) EPC dated 14th December 2007, the deadline for response to which has been extended by a period of two months..

In response to the communication, I enclose herewith replacement pages 201 to 220 containing an amended set of claims. For the avoidance of doubt, it is noted that all amendments are without prejudice to the later reinstatement of any deleted subject matter or the filing of a divisional application thereto.

Also enclosed is a concordance table setting out the basis in the original PCT application for each of the amended claims.

Our observations on the points raised in the communication of 14th December 2007 are set out below.

Novelty and Inventive Step

Document D2 has been cited against the present application on novelty grounds.

Document D2 discloses in Preparation 48 the compound (2R, 5S)-1-benzyl-4-(R)-1-(3-[1-(tert-butyl)-1,1-dimethylsilyl]oxyphenyl)-1-[4-(1H-pyrazol-4-yl)phenyl]methyl-2,5-dimethylhexahydropyrazine. This compound, which falls within claim 1 of the present application as originally filed, is only disclosed as a synthetic intermediate. No biological properties or therapeutic uses are disclosed or suggested for the compound. Since this compound represents an accidental anticipation, it is permissible to exclude the compound from the scope of the claim by means of a disclaimer, and this has been done in the enclosed amended claims. The claims as amended are therefore novel in relation to document D2.

I am pleased to note that the Examining Division considers the novel subject matter of the application to be inventive over the cited prior art. Accordingly, the subject matter of the claims as amended is believed to meet the requirements for inventive step.

Definition of the substituent groups

The optional substituent groups for the moieties E and R^1 have now been introduced into the claim as requested in the IPRP. Thus claim 1 now includes the definition of the substituents for E from original claim 28 and the definition of the substituents for R^1 from original claim 42. Claim 2 has been amended in a similar manner. The amended claims are believed to be in accordance with Article 123 (2) EPC.

As regards the definition of the linker group A, it is respectfully submitted that this is clear as it stands and that no amendment is necessary.

A is described as being a saturated hydrocarbon group which contains from 1 to 7 carbon atoms. One of the carbon atoms in the hydrocarbon group can be replaced by O or N, and the hydrocarbon group can be substituted by =O, F or OH. It is also stated in the claim that there is a maximum chain length of 5 atoms between R^1 and NR^2R^3 and a maximum chain length of 4 atoms between E and NR^2R^3.

Thus, the definition of A is actually very detailed and we do not see any reason why it should be regarded as being in any way unclear. Accordingly, it is requested that the definition of A be allowed to remain in the claims in its present form.

Objections to the amended claims filed on 23.7.2006

Claim 12, which corresponds to claim 11 in the claims filed on 23.7.2006 has been amended to include the structures A1 to A11.

Claim 12 of the claims filed on 23.7.2007 has been deleted and replaced by claims 13 and 14.

Claim 21 has been replaced by claims 23 and 24.

The expressions "such as" and "for example" and like expressions have been removed from the claims. In some instances, the subject matter following such expressions has been made the subject of dependent claims.

General

It is believed that the claims as amended meet fully the requirements of the EPC and Implementing Regulations. In the event that the Examining Division agree, then we request an opportunity to bring the description into line with the amended claims.

Precautionary request for oral proceedings

As a precaution, in case the Examining Division form an intention to refuse the application, oral proceedings are requested. It is preferred however that any further problems be resolved by means of a continuation of the written proceedings.

Yours faithfully
Elkington and Fife LLP

Dr Michael R. Hutchins

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Date
14.04.08

Reference	Application No./Patent No.
MRH/P40657EP	04806258.2 - 2101
Applicant/Proprietor	
Astex Therapeutics Limited, et al	

Extension of time limit pursuant to Rule 132(2) EPC

Examination procedure

With reference to your request, the time limit for replying to the communication dated 14.12.07 has been extended

by 2 months

to a total of 6 months

from the date of notification of the above-mentioned communication.

Please note: To the extent that your request exceeded the above extension, your request has been refused.

Note
The granting of extensions to time limits is governed by the Implementing Regulations to the EPC and the Guidelines for Examination in the EPO, part E-VIII, 1.6.

If no reply to the communication is received in due time, the European patent application will be deemed to be withdrawn (Art. 94(4) EPC).

For the Examining Division

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